

### **REMARKS**

This paper is submitted in response to the non-final office action dated December 4, 2009, wherein (a) claims 1-4 were pending; (b) claims 1-4 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite; and (c) claims 1-4 were rejected under 35 U.S.C. §103(a) as being obvious over Wasmuht (U.S. Patent No. 5,865,093) in view of Lenz (DE 3504500).

By way of the foregoing, claims 1, 2, and 3 are amended for clarity and to conform with preferred U.S. format. Claim 1 is also amended to recite the features of now canceled claim 4. As such, no new matter is added.

In view of the foregoing amendments to the claims and the following remarks, the applicants kindly request prompt and favorable consideration of the application.

### **INDEFINITENESS REJECTIONS**

Claim 1 is amended herein to provide proper antecedent basis for the term “inner boiler,” and more particularly, for the term “pipe bundle inner boiler.”

Reconsideration and withdrawal of the outstanding indefiniteness rejections are respectfully requested.

### **OBVIOUSNESS REJECTIONS**

Independent claim 1 is amended herein to clarify the scope of the present invention. As amended, claim 1 recites a method for boiling wort used in the production of beer. The method includes the following steps, which, for clarity, include reference numerals corresponding to the reference numerals used in the description and figures: a) pumping wort in a wort copper (1) with a pump (4) through a central pipe (5) of a forced circulation circuit (4, 5a, 5, 3), which contains a thin-film distributor (3) arranged above the central pipe (5), a pipe-bundle inner boiler (2) boiling the wort and an inner area of the pipe bundle inner boiler (2) surrounding and heating the central pipe (5); b) pumping the wort into a whirlpool (7) after pumping the wort in the wort copper; c) pumping the wort from the whirlpool (7) to the thin-film distributor (3) of the wort copper via the central pipe; and d) cooling the wort.

The applicants respectfully submit that the cited prior art fails to disclose or suggest each and every feature of amended independent claim 1.

The office action states that Wasmuht discloses a method for boiling wort “comprising an inner boiler which is a piped-bundle inner boiler for heating the inner area of a central pipe such that the wort is boiled within col. 3 lines 55-57) without using steam.” The applicants respectfully submit that the office action has set forth a misinterpretation of Wasmuht. Specifically, the device of Wasmuht does not include a central pipe, as recited in claim 1; instead, Wasmuht merely includes a pipe bundle inner boiler. As such, Wasmuht neither discloses pumping wort through a central pipe of a forced circulation circuit, nor an inner area of the pipe bundle inner boiler surrounding and heating the central pipe, as recited in step a) of amended independent claim 1. Lenz is merely relied upon for disclosing a thin film distributor, and therefore, does not appear to remedy the deficiencies of Wasmuht. While Lenz appears to illustrate a wort copper with a central pipe 9, wort is not pumped through the central pipe 9. Rather, the central pipe 9 is the steam feed for the inner boiler, as described in the translation of the abstract of Lenz attached by the examiner to the outstanding office action.

In view of the foregoing, the applicants respectfully submit that amended independent claim 1 is in condition for allowance.

Moreover, the applicants respectfully submit that dependent claim 3 recites clearly allowable subject matter because the prior art does not disclose pumping wort from a whirlpool back to the thin-film distributor, via the central pipe, while the inner boiler is not provided with steam. Again, the prior art fails to include an inner boiler and a central pipe thorough which wort is pumped. Moreover, the prior art only discloses moving wort to a distributor when the inner boiler is supplied with heat. While Wasmuht discusses moving wort through an inner boiler more than one time (see e.g., column 3, lines 55-57), Wasmuht does not disclose that subsequent passes occur after a resident time in a whirlpool and, more importantly, Wasmuht does not disclose subsequent passes occurring in the absence of steam. Rather, Wasmuht discloses that the wort can be “directly introduced again underneath the tube-type boiler where it is driven upwards by the hot tube-type boiler.” A person having ordinary skill in the art would understand this as meaning that the tube type boiler is heated during this process because the driving is achieved “by the hot tube-type boiler.”

In view of the foregoing, the applicants kindly request prompt and favourable consideration of the application, as amended.

**CONCLUSION**

The applicants believe that all outstanding objections, rejections, and other concerns have been either accommodated, traversed, or rendered moot. If there are any issues that the examiner believes may be remedied via telephone conference, kindly contact the undersigned at (312) 474-6300.

Dated: March 3, 2010

Respectfully submitted,

By 

Michael P. Furmanek

Registration No.: 58,495

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Attorney for Applicant